

***AL-FARÁ'ID***  
**ISLAMIC LAW OF INHERITANCE**  
**THE INTRODUCTION**

**BY**

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## PREFACE

بسم الله الرحمن الرحيم

*Bismillāhi Rahmāni Rahīm*

**In the Name of Allāh, the Beneficent, the Merciful**

*As-Salām Alaekum Warahmatullāh Wabarakātuh.* May Allāh's blessings be upon you and all the Muslims worldwide till eternity (Āmīn).

We are happy to introduce to you preliminary lessons of *Al-Farā'id* (The Islamic law of Inheritance) and *Al-Mīrāth* (the knowledge of inheritance distribution and allotment). The knowledge of inheritance is essential for all Muslims to know and applied as an obligatory act to eschew enmity, difficulties and rancours that might arise after the demise of our beloved ones, during and after the valuation and sharing of their properties. Though, the general perception among the Muslims is that *Al-Farā'id* and *Al-Mīrāth* are too difficult and complex to learn and comprehend because of their numerous theories and mathematical inclinations, it's our aims to present the lesson of inheritance law in Islām in most lucid ways closer to easy understanding for all and sundry. Therefore, this is an introductory knowledge of *Al-Farā'id/Al-Mīrāth* and we present this in **PDF File** for easy reading, dissemination and assimilation among the *Ummah*; though, the work is © copyrighted!

The lessons therein were derived from our online class (16 classes so far between June and August, 2019) which was initiated by "The Instructor" on 15<sup>th</sup> June, 2019 to simplify the reading, learning and application of inheritance law among the Muslims and they are presented in piece-meal for all. The lessons are therefore presented here as we learnt it in the class. Please feel free to read and share it among the Muslims. May Allāh accept it as an act of *Ibādah* for everyone. You can join our online classes on the following platforms:

- i. On Facebook: @ [www.facebook.com/Online Clinic on Inheritance Law in Islam](https://www.facebook.com/OnlineClinicOnInheritanceLawInIslam)
- ii. On WhatsApp @ <https://chat.whatsapp.com/BaXvrxtqvv4VOoPol4RDC>
- iii. On Telegram @ <https://t.me/joinchat/Ma6rqBR1h8kLkZpvxmDkw>

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### TOPICS DISCUSSED IN THIS INTRODUCTORY SERIES

1. Meaning of Inheritance and Succession.
2. Meaning of *Al-Farā'id* and *Al-Mīrāth*.
3. Inheritance Methods and Practices in Judaism and Christianity.
4. Inheritance Practices in Pre-Islamic Arabia.
5. Customary Inheritance Methods in Africa: Nigeria as a Case Study.
6. Nigerian Constitution and Muslim Inheritance Conundrum.

➤ Lesson 1

As-Salām Alaekum Warahmatullāh Wabarakātuh

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Meaning of Inheritance and Succession (Part 1)**

*Alhamdulillah*, we intend *Inshā' Allāh* to concisely look at the meaning of inheritance and succession. The two words are used interchangeably and are sometimes confusing. Many authorities have defined the two words either separately or in an interwoven manner. For us, and for clarity, we shall define them separately and later look at their differences and similarities.

Inheritance is defined as the process of devolving property upon the death of its owner. According to Morgan, it means the distribution of deceased's property among the cognate kindred. It is also believed to be the transfer of an article from one person to another which involves the transfer of wealth, knowledge, honour or dignity.

On the other hand, succession is defined as the substitute of a living person for the deceased person in a relation to all rights and duties which the latter had. Some also see succession as the right of a person to succeed into title, throne and properties and what-not of any person dead or alive. In essence, succession is seen as the right and transmission of the rights and obligation of the deceased to his heirs that takes place only after the death of the property's owner.

By mere contemplating on the two definitions above, its crystal clear that both inheritance and succession centred around the transfer of properties at the expiration of someone's authority due to death. It also connotes the availability and certification of the dead person, the property and the new owner. *Inshā' Allāh*, in the next lesson, we shall look at the differences and the similarities between the two phenomena.

May Allāh increase us all in knowledge (Āmīn).

*Jazakumullahu Khaeran* for reading today's lesson.

**Yours In Islām**

@ Abū 'Āisha.

**The Instructor**

**Reference:** Encyclopaedia Britannica, 15<sup>th</sup> ed. Vol.21.  
<https://www.britannica.com/topic/inheritance-law>, Morgan, L. H, *Ancient Society*, 2<sup>nd</sup> ed. 1958,  
Mustapha, A, *et al*, *Inheritance* (Pakistan: Women Aid Trust, 2014),

<http://ssrn.com/abstract=2413156> and [www.wat.com.pk](http://www.wat.com.pk) , Okunola. M , "Relationship between Islamic Law and Customary Law of Succession in Southern Nigeria" in Prince Bola Ajibola, Yemi Osinbajo and Awa U. Kalu (eds.), *Towards a Restatement of Nigerian Customary Law* ,Vol. 10, (Lagos: Federal Ministry of Justice, Lagos , Nigeria 1991). Harvey, B.W *The Law and Practice of Nigerian Wills, Probated and Succession* (London: Sweet and Maxwell, n.d and Lagos: AUP, n.d) and Garner, B, *Black's Law Dictionary*, 9<sup>th</sup> ed., (USA: West, 2006)

## ➤ Lesson 2

**As-Salām Alaekum Warahmatullāh Wabarakātuh**

*Bismillāhi Rahmāni Rahīm*

**You are all welcome to today's class on inheritance law in Islām.**

**Topic: Meaning of Inheritance and Succession (Part 2): The Differences.**

*Alhamdulillah Rabil Ālamīn.* In the last class, we promised to look at the differences between Inheritance and Succession. It must be noted here that in the understanding of the most authorities, there are meager differences between the two. In fact, some even see no differences at all and believed that the usages are the premises on which the differences are based. In an attempt to differentiate between the two, T.P Wallis quoting Judge Ngocobo who differentiated between succession and inheritance from the customary law context said: "*A distinction is drawn between succession and inheritance. The successor in title to the male spouse inherits the name and status and not the property and for the continuation of the family name such successor is a male descendant. The fact that mistakenly these two roles have been confused should not lead to invalidation of the law; instead, the court's function is to clarify and confirm the proper application of the customary law*".

However, Mobeen Cassim in his own assessment built on the understanding of Islamic law does not see any differences between the two. In fact he postulated his argument on the premises that "Succession and Inheritance" involves the right of every Muslim, man or woman which has been granted by Islamic law to acquire his or her right from the estate of a deceased. The most glaring difference noted in the notion of most scholars about the two phenomena is that in most cases, succession can take place without the demise of the owner of the property, while inheritance is validated only after the demise of the deceased, known as *praepositus*. The contemporary example of this is the recent throne abdication exercised by the aged Japanese Emperor, Akihito to his heir apparent, his son, Naruhito who has since resumed the status of Japanese Emperor. This happened in 2019 and it is on record that the aged Emperor is still alive while his son succeeded him.

Also, we must bear it in mind that the two words, succession and inheritance are used interchangeably even under Islamic law as *Al-Farā'id* and *Al-Mīrāth*.

Lastly, the most prominent inheritance or succession practices known world over include

agnatic or patrilineal inheritance, matrilineal inheritance, primogeniture inheritance and ultimogeniture or posteremogeniture inheritance. *Inshā' Allāh* all of these shall be explained later.

May Allāh reward you for reading today's lesson. (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**Reference:** Wallis, T.P "Primogeniture and Ultimogeniture Under scrutiny in South Africa and Botswana" LLM Dissertation, North-West University, South Africa, May, 2016, *The Law of Library Congress*, "Inheritance Laws in Nineteen and Twentieth Centuries" March 2014, 'Abd al'Ati, H, *The Family Structure in Islam*, (American Trust Publication, 1970) and Muhahhari, M, *Women's Rights in Islam*. (Unknown Publisher, 1980)

➤ **Lesson 3**

**As-Salām Alaekum Warahmatullāh Wabarakātuh**

*Bismillāhi Rahmāni Rahīm*

**You are all welcome to today's class on inheritance law in Islām.**

**Topic: Meaning of *Al-Farā'id* and *Al-Mīrāth*.**

Today, *Inshā' Allāh* we are looking at the legal meaning of *Al-Farā'id* and *Al-Mīrāth* as enshrined under Islamic law. *Al-Farā'id* means a science under Islamic law (*Sharī'ah*) which stipulates what to be inherited (as property), who to inherit (as heir or beneficiary) and whom to inherit from (the deceased). In essence, it is the science of succession, distribution and transfer of properties that gives rules which guide as to who inherits and who is to be inherited, and what shares go to the heirs.

*Al-Mīrāth* on the other hand refers to the science of the systematic jurisprudential reasoning and mathematical calculus involved in the determination of the exact share(s) of each legal heir(s) in the property left behind by one or more deceased or praepositus.

It must be noted that the two terms are interwoven and are used interchangeably in Islamic law to denote inheritance and succession respectively.

The codification and enactment of this law, that is *Al-Farā'id* and *Al-Mīrāth* is "divine" in

nature as enunciated in Sūrah Al-Nisā', Qur'ān Chapter Four especially from Verses 7- 14 and 176. Indeed it was Allāh, the Chief-Inheritor and the Creator of the Universe who gave an explicit verdict and explanation about the act of succession and inheritance to emancipate mankind from the usual practice of devolving inheritance with injustice and alienation.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** See Yusuf, A. R. and Sheriff, E. E. O, *Succession Under Islamic Law* (Lagos: Malthouse Press Limited, 2011), Al-Jibali, M, *Inheritance Regulation and Exhortation*, 2<sup>nd</sup> ed. (Al-Madinah, Saudi Arabia: *al-Kitaab* and *as-Sunah* publication, 2005) and Doi, A.I, *Shariah: The Islamic Law*, (London: Ta Ha Publishers, 1984)

➤ **Lesson 4**

**As-Salām Alaekum Warahmatullāh Wabarakātuh**

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Inheritance Regimes before Islām (Part 1): Inheritance Methods in Judaism**

As Muslims, it's imperative on us to be acquainted with inheritance methods in other climes and religion. Today, we are discussing inheritance in Judaism. Judaism (*Al-Yahūdiyyah*) is believed to be the religion credited to Prophet Musa (PBUH) and his followers (who are known as Jews) with the revealed Book "*Al-Taorah* or *Torah*" through which the Jewish laws were promulgated. This revealed Book given to Prophet Musa which is known as the Jewish Book has only five chapters, that is, the Genesis, Exodus, Leviticus, Numbers and Deuteronomy and through these, all the Jewish laws as inferred from these five chapters is known as "*Halakkah*". The adherents of Judaism are one of the "*Ahl al-Kitāb*- People of the Books" as mentioned in Islām.

According to Jonathan Berkey, its believed that Syria was reported to be the centre of ancient world where the Jews constituted largest population before the fourth century of Christian Era and before the trend moved to Mesopotamia; and as he posited, by the rise of Islām, the Jewish community of Babylonia was over a millennium old and the God of Israel was

known throughout the Near Eastern and Mediterranean Worlds. In fact, their presence was also felt in some part of *Hijāz* and Arabian Peninsula such as *Yathrib (Al-Madīnah)* and others. Nonetheless, these Jewish communities have their distinct inheritance methods that they attributed to the revelation of *Al-Taorah*, though the methods are believed to be adulterated and corrupted. Today, the Jewish law is based on *Talmud*, the acclaimed collections of scholars' commentaries and consensus on religious issues.

Therefore, some of the inheritance methods as inferred from Jewish law are as follow:

1. If a man dies, and have no son, then ye shall cause his inheritance to pass unto his daughters. And if he has no daughter, then ye shall give his inheritance unto his brethren. And if he has no brethren, then ye shall give his inheritance unto his father's brethren. And if his father has no brethren, then ye shall give his inheritance unto his kinsman that is next to him of his family and he shall possess it. (See Numbers 27:8-11)
2. The Jewish first son of the family (even if he is an illegitimate child) gets double the share of the estate while the others get equal shares. (See Deuteronomy 21:15-17)
3. The husband takes precedence over other heirs in his wife's estate even if his union to her is a prohibited marriage. The wife is not also a legal heir to her husband's estate. She only receives her dowry increment and entitled to maintenance from her husband's estate until her death or remarrying.
4. Son or son's son prohibits daughters from inheritance once they are alive. They are only provided for from their father's estate until maturity or marriage. Sons must give their sisters part of their father's estate for the payment of their dowry.
5. If a man dies childless, his brother is in line to marry his widow. The first born from this marriage is presumed as the first born of his deceased's brother who can inherit from both childless brother and his real father.
6. Illegitimate children (either through adultery, incest or others) inherit in the same manner as those born in wedlock.
7. Under Jewish law, difference of religion impedes non-Jewish from inheriting a Jew but a Jew can inherit a non-Jew. Furthermore, a Jewish apostate cannot inherit his or her relatives but the relative can inherit him or her. Homicide also impedes the perpetrator from inheriting.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Berkey, J.P, *The Formation of Islam: Religion and Society in the Near East, 600-1800* (Cambridge: Cambridge University Press, 2003), Abd al'Ati, H, *The Family Structure in Islam*, (American Trust publication, 1970), Fisher, G, *Between Empires: Arabs, Romans and Sasanians in*



*Late Antiquity* (Oxford: Oxford University Press, 2011), Gunawan, A, *Women and the Glorious Qur'an: An Analytical Study of Women-Related Verses of Sura An-Nisa* (Universitäts Verlag, Gottingen, 2004) and Radford, M.F, "The Inheritance Rights of Women Under the Jewish and Islamic Law", *Boston College International and Comparative Law Review*, Vol.23, Issue 2, Article 2, 2000.

➤ **Lesson 5**

**As-Salām Alaekum Warahmatullāh Wabarakātuh**

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Inheritance Regimes before Islām (Part 2): Inheritance Methods in Christianity**

Last week, we discussed the inheritance practices as codified under Judaism. We are here today discussing the inheritance method in Christianity. It is apposite to state here that Christianity as of today is in total defiance from what Jesus (Prophet Isa- Peace be upon him) preached and practiced among the Israelites. The word Christianity has no etymological derivation in Prophet Isa's teaching; hence, its theological doctrines are the formulations of various ecclesiastical authorities (Church leaderships) such as Roman Catholics, Anglican Communion, Eastern Orthodox and others who promulgated different set of rules and ordinances. Nonetheless, The New Testament does not give any specific rules about inheritance and succession. This so-called Christian law of succession is viewed consonant with the Hebrew's law of succession and it is often referred to as "*Christian-Hebrew Law of Succession*" In essence, it is believed that what is known today as Christian law of succession was copied from Hebrew succession law. Some of these adopted Christians ways of succession are:

- i. The father must confer the power of leadership unto the first son in a special blessing as in Genesis 27, 29 and 37.
- ii. Testamentary disposition can give equal shares to both daughters and sons as in Job 42:15 and even a submissive or wise servant or slave can have portion of inheritance or freedom if pronounced by the testator as found in Proverb 17:2.
- iii. The right of the first son to have double portion of shares (as in Deuteronomy 21:16-17) must be respected by the father as a command given to one's son.
- iv. Unlike the Jewish law, the son/sons of the concubines, son/sons of bondwomen and son/sons of prostitutes are dismissed from inheritance.
- v. Daughters are entitled to inheritance in default of sons' absence provided that they married within the clan.
- vi. Widows are not granted any right in the inheritance neither were the daughters given any share where sons survived. Biblically, females are not allowed any portion of the



- family properties in order to prevent its passing to another family.
- vii. In Christendom, Women are not entitled to inheritance except in a single case; when they do not have a male sibling. Indeed, they are part of property to be inherited as a widow belonging to her husband's brother who would in his capacity marry her through levirate law with or without her consent.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Berkey, J.P, *The Formation of Islam: Religion and Society in the Near East, 600-1800* (Cambridge: Cambridge University Press, 2003), Falk, Z.W, *Hebrew Law in Biblical Times* (Provo: BYU Press, 2001) and Radford, M.F, "The Inheritance Rights of Women under the Jewish and Islamic Law", *Boston College International and Comparative Law Review*, Vol.23, Issue 2, Article 2, 2000.

➤ **Lesson 6**

**As-Salām Alaekum Warahmatullāh Wabarakātuh**

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Inheritance Regimes before Islām (Part 3): Inheritance Practices in Pre- Islamic Arabia**

**(Series 1)**

*Alhamdulillah.* In addition to our previous lessons on inheritance practices under Judaism and Christianity, today we are looking at the inheritance practice in pre-Islamic Arabia, that is, the Arabs before the mission of our Noble Prophet (SAW). The Arabia is believed to be the original home of the Semites, the acclaimed progenies (descendants) of Prophet Nūh (A.S). The Arabian Peninsula housed both sedentary and nomads Arabs who are deeply involved in polytheism. Though, there are huge traces and effects of some of the early monotheistic religions such as Judaism and Christianity (*Al-Yuhūdīyyah* and *Al-Nasārah*) with strong cultural influences on the Arabs as found in Syria, Yamāmah, Lebanon, Yathrib and other places, the prevalence of Arabian polytheism could not be underestimated.

Al-Hijāz happened to be one of the most popular places in Arabia because of its economic and cultural position. It houses cities such as Makkah, Yathrib and others. It attracted foreigners in term of businesses, trade mission, cultural exchanges, polytheistic convergence and

pilgrimage and so on to the extent that the *Hijāzi* Arabs were not regarded as Bedouins (the localized Arabs) because of their cultural and economic advancement. In fact, the city of Makkah was the center of all attractions.

However, the nature of Arabs in term of inheritance and succession was cruel and barbarous. Their inheritance practice before Islām was sandwiched with innumerable attributes that denoted a cruel society. This was the nation and people into which our Prophet (PBUH) was born in 570 C.E, and because of their attitudes which were adjudged barbaric, the period is termed "*Al-'Asr Al-Jāhiliyyah- The Period of Ignorance*". *Inshā' Allāh*, in our next class, we shall deeply look at the nature of Arab inheritance practice before the mission of our Prophet which came to liberate mankind. May Almighty Allāh increase us in Knowledge (Āmīn).

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Berkey, J.P, *The Formation of Islam: Religion and Society in the Near East, 600-1800* (Cambridge: Cambridge University Press, 2003), Abdul, M.O.A, *The Classical Caliphate: The Islamic Institution* (Lagos: Islamic Publication Bureau, 1988) and Nicholson, R. A, *A Literary History of the Arab*(New Delhi: Kitan Bhavan, 1907 and 1994).

## ➤ Lesson 7

**As-Salām Alaekum Warahmatullāh Wabarakātuh**

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Inheritance Regimes before Islām (Part 3): Inheritance Practices in Pre- Islamic Arabia**

**(Series 2)**

*Alhamdulillah*, Yesterday, we started the inheritance practice among the Arabs prior to Prophet Muhammad's mission. It's imperative on us as Muslims to know this because the Arab's attitudes and that of previous nations necessitated the revelation of the most humane precepts of inheritance in human history. The Arabs' models of inheritance is highly hinged on patrilineal methods in which in all ramifications, women, the weak and the minors are exempted from inheritance. Women especially were the greatest victims of this injustice.

The ignorance tendency on inheritance issue was high and unabated. The following are some of the prevalent culture of inheritance during Arabs' *Al-'Asr Al-Jāhiliyyah- The Period of Ignorance*:

- i. Only men who are able to defend or protect the honour of the family or the clan had the right to inherit.
- ii. Women are regarded as part of the property and could be used for the settlement of debts while the weak, old, sick and minors were given no share.
- iii. A widow could be inherited by her deceased's husband representative or her stepson or by her husband's brother.
- iv. In pre-Islamic Arabia, descendants were preferred to ascendants and ascendants to collateral while the practices of defying the rights of female heirs are norms.
- v. Daughters, women, widows and minors and incapable person had no share in inheritance on the ground that they can't defend the honour of their clan or tribe.

Furthermore, there were other cruel models through which Arabs inherit one and the other. These methods or models were rejected by Islām as non-existence in Allāh's religion because they are synonymous to alienation, subjugation and prone to hypocrisy. *Inshā' Allāh*, these models or methods of inheritance shall be discussed in our next class.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Powers, D.S, "The Islamic Inheritance System: A Socio-Historical Approach", in Chibli Mallat and Trotman (eds.), *Islamic Family Law Series*, (n.d) and Gurin, M.A, *An Introduction to Islamic Law of Succession* (Zaria, Nigeria: Tamaza Publishing Company,1998)

➤ **Lesson 8**

*As-Salām Alaekum Warahmatullāh Wabarakātuh*

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Inheritance Regimes before Islām (Part 3): Inheritance Practices in Pre- Islamic Arabia**

**(Series 3)**

*Alhamdulillah*, in our last class, we discussed the pre-Islamic Arabs' behaviours which were adjudged cruel and alienation. Today, we intend to enumerate methods of inheritance among the Arabs before the mission of our Prophet (PBUH). These methods include:

- i. Inheritance through blood ties and prosperity.
- ii. Through means of sonship; that is, by allowing only the male child to inherit
- iii. By means of adopted sonship; that is, adopting their former slaves or servant as biological sons which was later prohibited by Islām (See Q33 verses 4) because it is an idea of forcing an alien into the family membership.
- iv. Through a means where two unrelated men who were members of different families bequest inheritance to each other through military or defense pact; to defend one another against enemies and to inherit accordingly.
- v. By swearing an oath of friendship; that is, undertaking a covenant legalizing the process of inheriting one and the other. Example of such alliance in phrase among the Arabs goes thus: *"My blood is your blood, my vengeance is your vengeance, my perish is your perish, my peace is your peace, my war is your war, you inherit me, and I inherit you, you make request on my behalf and I make it on yours, you help me, I help you, you ransom me as I ransom you"*

These were the attitudes of the Arabs before Islām and virtually these were repudiated by Allāh through the revelation of most accurate ways of inheritance, *Al-Farā'id*.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Haroon, M.G, *Foundation Principles of Islamic Law of Inheritance*, (Lagos: Jiyl-Qur'an Enterprises, 2005), Al-Sabuni, M.A , *Al-Mawarith Fii Shariati Al-Islamiyyah Fii dhaohi al-Kitab Wa*

*Al-Sunnah* (Darul-Kutub, 1388 A.H) and Gunawan, A, *Women and the Glorious Qur'an: An Analytical Study of Women-Related Verses of Sura An-Nisa* (Universitäts Verlag, Gottingen, 2004).

➤ **Lesson 9**

**As-Salām Alaekum Warahmatullāh Wabarakātuh**

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Inheritance Regimes before Islām (Part 4): Inheritance under African Customary Laws**

**(Series 1)**

*Alhamdulillah.* African is one of the ancient races as confirmed by several anthropologists citing the existence of the ancient Egyptians and Ethiopians among others. Today, Africans are found on the continent which inhabit the blacks and the white with a land mass totaling over 31 million square kilometers professing different cultures, believe and heritage. It must be reiterated that the African traditional culture was haltered by two alien (foreign) elements; that is the European culture and Islamic culture. The two cultures have been in logger head in the continent for centuries now.

However, these Africans had distinct ways of inheritance before the incursion of Islām and that of the Imperialists (Europeans) who brought Christianity. The methods of inheritance and succession (as divined by both Islām and Christianity) differ from one African culture to the others. For example, the inheritance practice amongst the East African (such as the Kenyans, the Somalis) is quite different from that of West Africans (such as Nigerians and the Malians). Also the methods of succession to thrones (kingships) or acquisition of properties also differ where some African adopted patrilineal method (inheritance through paternal line) as can be found in Nigeria and other countries while other Africans adopted Matrilineal method (inheritance through maternal line) as popular in Ghana and others.

Also Within some countries of Africa, the inheritance practice also differ, for example in Nigeria, the Hausa ways of inheritance (especially before Islām) differ from Yoruba way of inheritance and that of Ibo, Benin and Itsekiri methods. The Implications of these is that, inheritance worldwide is only universal in nomenclature but differ in practices, methodologies and applications.

*Inshā' Allāh,* our focus would be based on these African inheritance cultures as found in Nigeria. The prevalence culture of inheritance among the Ibos, the Binis (Edos), Hausa and most importantly the Yorubas would be enunciated. We must also be aware that all these practices are embedded in our customary laws which have generated much fierce litigations with the

application of Islamic law and Common Law.

The super-imposed English law which is also the customary law of England is seen and accepted as the Alpha and Omega in our judicial system relegating our traditional ways of adjudication especially in inheritance. Though, compared to Islamic law, our customary laws of inheritance are biased and alienating, the imposition of English law has made us all to forget the practices. In our next class, we shall look at Yoruba, Bini and Ibo customary ways of inheritance *Insha Allāh*. May Allāh guide us and increase us in Knowledge.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

@ Abū 'Āisha.

**The Instructor**

**References:** Kolajo, A. A, *Customary Law in Nigeria through the Cases* (Ibadan: Spectrum Books Limited, 2000) and Animashaun, T.O.G. and Oyeneyin, A.B, *Law of Succession, Wills and Probate in Nigeria* (Lagos: MIJ Professional Publishers Limited, 2002)

## ➤ Lesson 10

**As-Salām Alaekum Warahmatullāh Wabarakātuh**

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Inheritance Regimes before Islām (Part 4): Inheritance under African Customary**

### **Laws (Series 2)**

*Alhamdulillah.* Today, we are looking at inheritance under Nigerian customary laws. The prominent among these customary ways of succession are the *Binis*, *Yorubas* and *Ibo* inheritance laws which has being at fore front of legal altercations up to the Nigerian Supreme courts for decades. It may also interest us that the Hausa/Fulani customary ways of succession was not mentioned. This was due to subjugation of most of Hausa/Fulani's customs within Islamic norms for decades now since the Fulani *Jihād* of 1804 C.E (by Shaykh 'Uthmān Dan Fodio and his followers) in which only pocket of Hausa-Fulani customs subsist till today.

However, we are concerned with the *Ibo*, *Bini* and *Yoruba* ways of inheritance. Among the *Binis/Edos*, the prevalent method is the *Igiogbe* methods of inheritance. This involves a system whereby the house in which the father lived and died with all the belongings therein is inherited by the eldest son of the family at the detriment of their children of the deceased.

Under Ibo customary law of inheritance, *Okpala* or *Diokpa* primogeniture is also the norm where the succession is only through the eldest son who enjoys the inherited properties exclusively depriving his brothers and sisters. In both Bini and Ibo modes of succession, women are not entitled to properties, nor have the rights to acquire lands.

Furthermore, under Yoruba modes of succession, the problems are complicated. The modes of inheritance include:

- i. *Ori-o-jori* and *Idi Igi*. In *Ori-o-jori* system, the estate is equally distributed among the deceased's children irrespective of their ages and genders while in *Idi Igi* mode of succession, the deceased's estate is distributed equally by the number of wives the deceased left behind irrespective of the number of the children they had for him. These two modes of succession have been fiercely battled up to the Supreme Court and believed by many as Yorubas and numerous legal experts repugnant to social justice and equality in the last eight decades but the Supreme court had upheld the systems as the Yoruba appropriate native law and custom which still hold sway till eternity. The cases in this regard include *Dawodu v. Danmole*, *Akinyede v. Opere*, *Akinnubi v. Akinnubi* and many more. All these could be found in several Nigerian law reports.
- ii. Women as chattel (*Aje moogun*). As inherent in both Bini and Igbo succession rules, Yorubas also see women as chattel, that is, part of inheritable properties. She has no right to inheritance and cannot acquire land. A prominent case in this regard was *Suberu v. Suberu* as held by the Supreme Court of Nigeria some decades ago
- iii. *Dawodu* or *Daodu* syndrome. This is a case where by the first child assumed the position of *Olori-Ebi* and becomes the *Dawodu* (Head of the Family). This process allows the *Olori-Ebi* to manipulate inherited properties at the detriment of other siblings. The unassailable power of *Olori-Ebi* was affirmed in the case of *Yusuf v. Dada*.

All these aforementioned inheritance practices in Nigeria are explicably repugnant to social justice and conscience and have been repudiated by many for decades now. That is the reason why inheritance law in Islām is all-encompassing to ameliorate the situation of mankind irrespective of their race and region once they subscribe to the tenets of Islām. May Almighty Allāh guide us.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Kolajo, A. *A Customary Law in Nigeria through the Cases* (Ibadan: Spectrum Books Limited, 2000), Animashaun, T.O.G. and Oyeneyin, A.B, *Law of Succession, Wills and Probate in Nigeria* (Lagos: MIJ Professional Publishers Limited, 2002), Niki, T, *Sources of Nigerian Law*



(Lagos: MIJ Professional Publishers, 1996) and Toriola, O. A, *A Handbook on African Laws of Marriages, Inheritance and Succession*, 1<sup>st</sup> ed., (Nigeria: Jator Publishing Company, n.d).

## ➤ Lesson 11

*As-Salām Alaekum Warahmatullāh Wabarakātuh*

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Nigerian Constitution and the Problems of Muslim Inheritance Law (Part 1)**

*Alhamdulillah*, in treating the above topic, as Muslims and as Nigerians, we are faced with two dilemmas; the Nigerian Constitution and the Muslim (Islamic) Law, that is *Sharī'ah*, under which Muslim Inheritance law is included. These two phenomena coupled with our existing customs and native norms (known as customary laws) made us to be an object of legal pluralism in which all these laws are enforceable and applicable on all our endeavours; be it social, religious, constitutional and others. In our attempt to enunciate this conundrum in which we found ourselves, we need to explain the concepts of Nigerian Constitution, *Sharī'ah* and the legal problems of using Islamic inheritance law in devolving our properties.

To start with, what is Nigerian Constitution? Constitution entails rules and regulations, whims and caprices on which all the apparatuses of governance are tailored; and on which the both the leaders and the populace are expected to behave and discharge their duties. In the space of 8 decades, Nigeria has had 9 different constitutions with the latest being the 1999 Constitution as amended. This constitution forms the National legal system which was the product of the tripartite systems; these are, the English received law, the customary laws and the Islamic law. Also, our constitution was also built on federalism; hence, we operate a federal constitution.

On the other hand, *Sharī'ah* as defined by AbdulRahman Doi means the ordinance that Almighty Allāh ordains for His worshippers so that they may be faithful and striving towards where lies their salvation here in this life and the hereafter. As posited further by Justice AbdulKadir Orire, *Sharī'ah* is the embodiment of divine commandment, a guide in terms of specific teachings whose acceptance and application guarantees the Muslims a harmonious life in this world and felicitation in the hereafter. This *Sharī'ah*, is primarily sourced from Qur'ān, *Sunnah* and ably supported by secondary sources which include *Qiyās* (Individualistic Analogical Deduction), *Ijmā'* (The Consensus of Scholars), *Ijtihād* (Judicial Exertion or Independent Reasoning), *Al-'Urf* (Custom), *Istihāsān* (Juristic Preference), *Istislāh* or *Maslahah* (Consideration of Public Interest), and *Istishāb*- (Legal Presumption of Continuance) as mostly sourced from both Qur'ān and *Sunnah*.

*Inshā' Allāh*, we continue the discussion in our next class. We hope to elaborate on these to enunciate our problems of using Islamic law of inheritance in devolving our properties.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Obilade, A.O, *The Nigerian Legal System* (Ibadan: Spectrum Law Publishing, 1979), Doi, A.I, *Shariah: The Islamic Law*, (London: Ta Ha Publishers, 1984), Justice Orire, A., "Shariah: A Legal System and A Way of Life" in A. M Yakubu *et al* (eds.) *Understanding Shariah in Nigeria* and Kamali, M.H, *Principles of Islamic Jurisprudence*, 2<sup>nd</sup> Rev. ed., (Kuala Lumpur, Malaysia: Ilmiah Publishers, 2000)

## ➤ Lesson 12

*As-Salām Alaekum Warahmatullāh Wabarakātuh*

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Nigerian Constitution and the Problems of Muslim Inheritance Law (Part 2)**

*Alhamdulillah.* Previously, we concisely enunciated the meaning and nature of Nigerian Constitution and *Sharī'ah*, the Islamic Law. However, we must affirm here that *Sharī'ah* preceded the advent of any man-made constitutional imposition upon Nigerians. It sounds astonishing but that's the truth. The imposition of these so-called constitutions through imperialism began in nineteenth century whereas Islamic law had been in vogue in Northern Nigeria since fifteen century and in Southern Nigeria especially in the south-western Nigeria since seventeenth century or before as posited by some historians.

This, without mincing words means that the foremost religious law (aside the traditional religion) that was adopted by Nigerians is *Sharī'ah*. But for a century now, through imperialism, the prevalent enforceable legal system on Nigeria is English common law which formed the fulcrum of Nigerian constitution. In this alien constitution, the succession law is hinged on three systems; the English received law of succession, the customary law of succession and Islamic law of succession. In all facets, the English received law of succession is given priority over the due of customary and Islamic laws of succession.

The Islamic law of succession or Muslim law of succession as referred to in Nigerian constitution is restricted to Muslims personal law in the areas of adoption, divorce, inheritance and marriage. The enforcement of these areas in Islamic law as enshrined in the constitution is also strictly resisted and enforced only in the Northern parts of Nigerian while the Southern Nigerian Muslims are at mercy of both customary and English received law of successions denying them their fundamental and religious rights to live and act as Muslims within Nigeria. Even those in Northern Nigeria cannot fully implement *Sharī'ah* in their inheritance process because the *Sharī'ah* Court jurisdiction is also restricted and subdued under the so-called Higher (Appellate) courts of justice in Nigeria such as High Courts, Courts of Appeals and the Supreme Courts which are constitutionally empowered to entertain appeals from *Sharī'ah* Courts and pronounce judgment without any recourse to *Sharī'ah* provision. What a judicial and freedom of religion anachronism that befall Nigerian Muslims!

Therefore, the question would be posed is, what is the way out in devolving our property Islamically? Is there any way out? *Inshā' Allāh*, in our next class, we shall delve into this and enunciate all the processes through which we can exercise our constitutional and fundamental human rights to share our properties according to Islamic law of inheritance without any prejudice.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Obilade, A.O, *The Nigerian Legal System* (Ibadan: Spectrum Law Publishing,1979), Kolajo, A. A *Customary Law in Nigeria through the Cases*, (Ibadan: Spectrum Books Limited, 2000 ) and Animashaun, T.O.G. and Oyeneyin, A.B, *Law of Succession, Wills and Probate in Nigeria*( Lagos: MIJ Professional Publishers Limited, 2002).

➤ **Lesson 13**

*As-Salām Alaekum Warahmatullāh Wabarakātuh*

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Nigerian Constitution and the Problems of Muslim Inheritance Law (Part 3)**

The imbroglio between Nigerian Constitution and implementation of Islamic law (*Sharī'ah*) in

devolving our properties is worrisome. However, for us to understand this and the way out for us as Muslims subjected to alien constitution and legal system, we need to consider the following from the two systems of law:

- i. In Section 38(1) of 1999 Constitution of the Federal Republic of Nigeria as amended, its specifically stated thus: “Every person shall be entitled to freedom of thought, conscience, and religion, including freedom to change his religion or belief, and freedom to manifest and propagate his religion or belief in worship, teaching, practice and observance”. This simply means that any Nigerian is constitutional empowered to profess his or her religious thought and practice in tandem with his or her belief without any hindrance whatsoever.
- ii. Nigerian Constitution allows the implementation of inheritance procedure through testation (will writing) and intestacy (Inheritance at the death of the deceased who has written no will). The distribution in the latter is subjected to each Nigerian state’s estate and properties law.
- iii. The Muslims worldwide are mandated by Allāh to share their properties according to Islamic provision as enshrined in Q4 verses 7, 11, 12 and 176; and whoever deviated from Allah’s injunction is a wrong doer and shall face His wrath in this world and the hereafter.
- iv. Ibn ‘Abbās as narrated in *Sahīh* Al-Bukhārī reported that the Prophet of Allāh said: “Give the *Farā'id* (the shares of the inheritance that are prescribed in the Qur’ān) to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased”.

Going by the above enunciation from the constitution which guaranteed freedom of religion in abstract not in reality, the states’ powers to determine the estate laws and the Qur’anic obligations on Muslims to follow the precepts of Islām in devolving their properties, we could not but wonder what would a Nigerian Muslim do to please His creator? Is there any way out for Nigerian Muslims by bypassing the burden of constitution in order to please their Lord, Allāh? *Inshā’ Allāh*, our next class would be centered on this problems and the way out. The issue is complicated and we shall try to open our hearts to the process of law through which we can exercise our religious and fundamental human rights in devolving our properties as it pleases Allāh.

*Jazākumullāhu Khaeran* for reading today’s lesson (Āmīn).

**Yours In Islām**

**@ Abū ‘Āisha**

**The Instructor**

**References:** 1999 Constitution of the Federal Republic of Nigeria as amended, Imām Al-Bukhārī,

*Sahīh Al-Bukhārī*, Eng. Transl., Khan, M.M, Vol.8, (Riyadh, Saudi Arabia: Darussalam Publishers, 1997) and Abayomi, K, *Wills: Law and Practice* (Lagos, Nigeria: Mbeyi and Associates Publishers, 2004).

➤ **Lesson 14**

*As-Salām Alaekum Warahmatullāh Wabarakātuh*

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Nigerian Constitution and the Problems of Muslim Inheritance Law (Part 4)**

Previously, we enunciated the constitutional provision which guaranteed the freedom of religion (as enshrined in 1999 constitution of Nigeria), the restriction placed by the same constitution on *Shari'ah* implementation to the fullest in all our affairs, the windows given by our legal system to the implementation of customary and Islamic law in some issues as regards inheritance, marriage, divorce and land disputes and the huge obligation divinely placed on us as Muslims by Almighty Allāh in devolving our properties. The dilemma remains how could we obey Allāh and be emancipated from the shackle of man-made law as ours?

It is gratifying to inform us that there are many judicial precedents and constitutional provisions which have given Nigerian Muslims ample opportunities in deciding their personal and family laws without any hindrance from either customary or any other appellate courts of the land. This sounds funny, impossible and unachievable in the mind of many Muslims because we are ignorant of our rights constitutionally and religiously. We have been bamboozled by non-Muslims who are at the helms of affairs, who have cheated us for long because we are not united and are ignorant of law. Alas! We can change the trend by knowing our rights, pursue it and make use of it judiciously. The following questions needed to be answered:

- i. How can I write my will Islamically in Nigeria and the will would be admitted and administered by court of law?
- ii. Can my family divide my properties after my demise according to Islamic law and such devolvment upheld by Nigerian courts even to the Supreme Courts?
- iii. How can we bypass and jettison our customary practices and use Islamic law in devolving our properties without any problem?

All these would be technically answered from innumerable judicial precedents that have been decided by appellate courts in Nigeria in which Muslim litigants/appellants and respondents were victorious. May Allah guide us aright.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

**Yours In Islām**

**@Abū 'Āisha.**

**The Instructor**

**References:** Abayomi, K, *Wills: Law and Practice* (Lagos, Nigeria: Mbeyi and Associates Publishers, 2004), Kolajo, A. *A Customary Law in Nigeria through the Cases* (Ibadan: Spectrum Books Limited, 2000 and) and Animashaun, T.O.G. and Oyeneyin, A.B, *Law of Succession, Wills and Probate in Nigeria* (Lagos: MIJ Professional Publishers Limited, 2002).

➤ **Lesson 15**

*As-Salām Alaekum Warahmatullāh Wabarakātuh*

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Nigerian Constitution and the Problems of Muslim Inheritance Law (Part 5)**

*Alhamdulillah,* Yesterday we analyzed three questions which we need to find solutions to in order to invoke our fundamental human and religious rights through our constitution and Qur'anic injunctions. Firstly, as we enunciated earlier, how can we write an Islamic will and make it valid in Nigerian courts of law?

As we all known, the common law will is quite different from Islamic will (*Al-Wasiyyah*) because in Islamic will writing, you are not allowed to divide your properties nor apportion it as you wished or denied legal heirs because of a reason or the other. You are **ONLY** allowed to enumerate what you acquire as properties, give out one-third of the entire properties for non-heirs as charity, endowment or gifts (if you wish because bequest is recommendatory not obligatory) and specify the debts you incurred while alive which must be settled immediately after your death before the actual sharing of the remnants. This is contradictory to common law will in which you can share your properties as you wished, denied legitimate heirs, give out your properties to non-heirs or turn all your properties to endowment at the detriment of your legitimate heirs.

Now, how can we make our will Islamic? This can be done by engaging an Islamic expert of Inheritance Law, enumerate what we have as properties, enumerate all our heirs, specify all our debts, enunciate all our legacies and bequests (*Wasiyyah*) and made the will to be duly witnessed and signed by our chosen witness (*Shuhadāi*) which are to be minimum of two men or a man and



two women. This will (*Wasiyyah* document) would now be taken to the “Probate” registry in our courts requesting that the will be deposited and registered.

In accordance with Section 38(1) of 1999 Constitution, the court has no jurisdiction to change or upturn the testamentary content of your will (*Wasiyyah*) in as much it does not infringe upon the rights of any legal heir. If the will is alienable, it can be litigated upon by the beneficiaries in court of law. This is the reason why we need to engage the expert in writing this Islamic will in order to be valid and tenable in court of law. If the will is written and perceived “Not Islamic “ by the heirs, it can be challenged in courts of law up to the Supreme Court as in the case of *Yinusa v. Adesubokan*. Though, this cited case was wrongly adjudicated upon by the Supreme Court which pronounced that the intestate succession of Yoruba Muslim is governed by Yoruba customary law rather than Islamic law unless proved otherwise. This implies that, if the Muslim has written his will (testation) and specified all his properties, his heirs, his debts and all legacies and pronounced that the estate MUST be divided by Islamic law, the Supreme Courts would not change the will and the division would subsists till eternity without any alteration from any quarter.

*Inshā' Allāh*, by the time we are treating basic theories of Islamic inheritance law, we shall elaborate more on this. But, without mincing words, as Muslims, you have rights to write your will, sign it and deposit it with yourself, your witnesses and the courts of law without any blemish. Tomorrow, God willing, we shall discuss how we can divide our properties with Islamic inheritance law and still be valid and tenable in the court of law. We have more judicial precedents to buttress this and to open our eyes to our rights as Nigerian Muslims.

*Jazākumullāhu Khaeran* for reading today’s lesson (Āmīn).

**Yours In Islām**

**@Abū ‘Āisha.**

**The Instructor**

**References:** Abayomi, K, *Wills: Law and Practice* (Lagos, Nigeria: Mbeyi and Associates Publishers, 2004) , Kolajo, A. *A Customary Law in Nigeria through the Cases* (Ibadan: Spectrum Books Limited, 2000) and Animashaun, T.O.G. and Oyeneyin, A.B, *Law of Succession, Wills and Probate in Nigeria* (Lagos: MIJ Professional Publishers Limited, 2002).



➤ Lesson 16

*As-Salām Alaekum Warahmatullāh Wabarakātuh*

*Bismillāhi Rahmāni Rahīm*

**You are welcome to today's class on inheritance law in Islām.**

**Topic: Nigerian Constitution and the Problems of Muslim Inheritance Law**

**(Part 6: The Conclusion)**

Glory be to Allah! Our main concern for the last five classes has been on the problems we face as Nigerian Muslims in devolving our properties in the midst of Allah's injunctions as enshrined in the Holy Qur'ān and the imposition of alien common law which has dominated our legal systems for decades now. We have also said that, Islamic law is not customary law which is peculiar to a section of the society but, a universal law which is applicable and enforceable upon all Muslims anywhere in the world. The consequence of this is that, we as Muslims have the obligation of adopting and practicing Islamic verdict in our dealings even in the faceoff with the common law. This sounds ridiculous and impossible to many because we don't know judicial precedents that have vindicated us. We intend to enunciate this to open our eyes.

The Nigerian Constitution recognizes and supports the application of *Shari'ah* law (in adjudicating personal laws and penal or criminal code) within the country. This is in line with the constitutional provisions under paragraph (C) of Section 277 (2) of 1999 Constitution as amended in which the Islamic law questions that can confer jurisdiction on the *Shari'ah* Court of Appeal as regards succession are on three specific matters; as mentioned, these are endowment (*Waqf*) gift (*Hibah*) and will (*Wasiyyah*) or succession (*Mirāth*). This, under Nigerian Constitution, the *Shari'ah* Courts of Appeal, a religio-legal based Court that can be established by any state within Nigeria has the power to determine all Islamic personal laws applicable to Muslims and this transcends the State laws because it is governed by the provision of the Constitution.

For example, in the case of *Mrs Adamo Ajibaiye v. Risikat Ajibaiye & 6 Ors.*, the prayers of the appellant was quashed on the ground that the will which surfaced after the death of one Alhaji Disu Ajibaiye in 2004 (in which more than *one-third* of the entire property was alleged to have been willed to one of his wives) was made on the premise of English Will Act 1837 which has been hitherto abolished by Kwara State Will Law Cap 168, and that the devolution was not in conformity with the Islamic law provision of will and succession as enforceable in Kwara State. From this judicial precedent, it is affirmed that Nigerian Muslims have an unfettered rights to invoke the provision of the Constitution in devolving their estate according to Islamic law of inheritance since the law, (that is, *Shari'ah*) is universal.

Furthermore, the above rights according to Justice Ambali and other authorities was evidently pronounced and upheld by the Nigerian Supreme Court which upheld the High Court verdict some

decades ago in the case of *Khairie Zaidan v. Fatimah Khalil Mohssen*. The litigation involved the prayer of a Lebanese, Fatimah Khalil, a resident of Warri, Delta State who demanded before a Warri High Court that the estate of her late son, Yusuf Khalil Zaidan be devolved according to Islamic Law as applicable in Lebanon against the wish of her son's widow, Mrs Khairie Zaidan. Her prayer was granted by the Court who judiciously upheld the pronouncement of the High Court and gave the verdict thus: "*The uncontradicted evidence throughout the whole case in the trial court is that the Muslim Law that is applicable is the same everywhere, whether in Lebanon or in Nigeria or elsewhere. For Muslims in any part of the world to insist in any court of law on Islamic Law as his or her personal law is more a matter of law and right than religious consideration*".

Going by the above pronouncements, the Muslim law of Inheritance as enshrined in Nigerian 1999 constitution and as demanded by the dictate of Islām in devolving estate is applicable to all Nigerian Muslims living either in the Northern or the Southern part of the country. The non-establishment of *Shari'ah* Court in the South is not seen as an impediment for anyone to demand the devolvment of his or her estate according to Islamic law in the appropriate Courts of law. As affirmed by Animashaun and Oyeneyin, Muslims must pronounce their estate as "devolveable" according to Islamic law while alive through Islamic will writing (*wasiyyah*) or contend with the consequences of dying "intestate" in which their estate devolved according to the Native law and Custom of his community as recorded in the case of *Molade v. Ojumola* in which the Court held that the estate of a Yoruba Muslim is governed by Yoruba Customary Law rather than Islamic law unless proved otherwise. And to prove otherwise as Muslims, we must engage in *wasiyyah* writing and deposit such in the courts' probates for enforcement after our death.

*Jazākumullāhu Khaeran* for reading today's lesson (Āmīn).

This is the end of our introductory classes on inheritance law in Islām.

See you in the next series *Inshā' Allāh !!!*

**Yours In Islām**

**@ Abū 'Āisha.**

**The Instructor**

**References:** Animashaun, T.O.G. and Oyeneyin, A.B, *Law of Succession, Wills and Probate in Nigeria*, (Lagos: MIJ Professional Publishers Limited, 2002), Obilade, A.O, *The Nigerian Legal System* (Ibadan: Spectrum Law Publishing, 1979) and Ambali, M .A *The Practice of Muslim Family Law in Nigeria*, 2<sup>nd</sup> ed., (2013)

## EPILOGUE

*Inshā' Allāh*, the knowledge about the basic concepts of inheritance law in Islām and their concise explanations shall be the focus of our next classes in the next series. . You are all enjoined to join via the links presented at the beginning of this manuscript; and God willing those lessons shall be widely shared soon to compliment this introductory lesson. Also, some practical questions and answers would be included for more understanding.

**WATCH OUT!!!**

**The Instructor**

**August, 2019/ Dhul-Hijjah, 1440 A.H**